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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/730,349	12/08/2003	Bharath Vasudevan	016295.1510	1764
23640	7590	08/23/2006	EXAMINER	
BAKER BOTTS, LLP 910 LOUISIANA HOUSTON, TX 77002-4995			MEHRMANESH, ELMIRA	
			ART UNIT	PAPER NUMBER
			2113	
DATE MAILED: 08/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/730,349	Applicant(s) VASUDEVAN ET AL.	
	Examiner Elmira Mehrmanesh	Art Unit 2113	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

The application of Vasudevan et al., for a "Transaction transfer during a failover of a cluster controller" filed December 8, 2003, has been examined.

Claims 1-11 are presented for examination.

Information disclosed and listed on PTO 1449 has been considered.

Claims 1-11 are rejected under 35 USC § 102.

### ***Specification***

The disclosure is objected to because of the following informalities: The specification contains a spelling error on page 6, paragraph [0010], line 8, "rescend" needs to be replaced by "resend". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Baba (U.S. PG PUB No. 20030237018).

As per claim 1, Baba discloses a method for failover in a cluster having two or more servers (Fig. 1), the two or more servers operative with each other by a heartbeat mechanism (page 6, paragraph [0070], lines 4-11) comprising:

detecting a failure of a first server of the two or more servers (page 5, paragraph [0054])

transferring a transaction queue from the first server to a second server of the two or more servers; and servicing the transactions of the transaction queue of the first server by the second server (pages 4-5, paragraph [0053]).

As per claim 2, Baba discloses detecting a failure via the heartbeat mechanism (page 6, paragraph [0070], lines 4-11).

As per claim 3, Baba discloses the failure is an unstable application (page 4, paragraph [0052]).

As per claim 4, Baba discloses the failure is a data path (page 4, paragraph [0052]).

As per claim 5, Baba discloses forwarding the transaction queue from the first server to the second server (pages 4-5, paragraph [0053]) via the heartbeat mechanism (page 6, paragraph [0070], lines 4-11).

As per claim 6, Baba discloses forwarding the transaction queue from the first server to the second server (pages 4-5, paragraph [0053]) via a network of the cluster (page 9, paragraph [0090]) and (Fig. 3).

As per claim 7, Baba discloses a method for failover of a sever in a cluster having two or more servers (Fig. 1), the two or more servers operative with each other by a heartbeat mechanism (page 6, paragraph [0070], lines 4-11), comprising:

copying a transaction queue from a first of the two or more servers (pages 4-5, paragraph [0053]) to a shared storage device (Fig. 5)

detecting a failure of the first server (page 5, paragraph [0054])

transferring the transaction queue from the shared storage device to a second server of the two or more servers; servicing the transactions of the transaction queue of the first server by the second server (pages 4-5, paragraph [0053]).

As per claim 8, Baba discloses detecting a failure via the heartbeat mechanism (page 6, paragraph [0070], lines 4-11).

As per claim 9, Baba discloses the failure is an unstable application (page 4, paragraph [0052]).

As per claim 10, Baba discloses the failure is a data path (page 4, paragraph [0052]).

As per claim 11, Baba discloses forwarding the transaction queue from the shared data source to the second server (pages 4-5, paragraph [0053]) via a network of the cluster (page 9, paragraph [0090]) and (Fig. 3).

### **Related Prior Art**

The following prior art is considered to be pertinent to applicant's invention, but nor relied upon for claim analysis conducted above.

Hebert (U.S. Patent No. 6,763,479), "High availability networking with alternate pathing failover".

Mashayekhi et al. (U.S. Patent No. 6,922,791), "Failover system and method for cluster environment".

Saika (U.S. Patent No. 7,055,053), "System and method for failover".

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elmira Mehrmanesh whose telephone number is (571) 272-5531. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W. Beausoliel can be reached on (571) 272-3645. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
ROBERT SAUSOLIEL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100